

REMARKS

The following remarks are responsive to the August 6, 2008 Office Action. Applicant respectfully requests the Examiner to reconsider the claims in view of the following remarks.

Summary of the Office Action

In the August 6, 2008 Office Action, Claims 39-57 and 62 stand rejected. Claims 39, 40, 43-46, 48, 56 and 57 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,074,790 issued to Bauer. Claims 41, 42, 47 and 49-52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bauer. Claims 53-55 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bauer in view of U.S. Patent No. 3,466,748 issued to Christensen. Claim 62 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bauer in view of U.S. Patent No. 5,520,540 issued to Nardi.

Traversal of Rejection under 35 U.S.C. § 102(b)

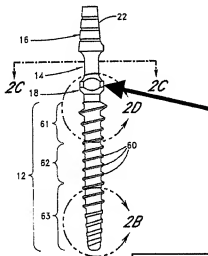
In the Office Action, Claims 39, 40, 43-46, 48, 56 and 57 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bauer. Applicant respectfully submits that Bauer fails to disclose each and every element of Claim 39. Claim 39 recites (emphasis added):

39. An integrally-formed immediate provisional dental implant elongated along an implant axis, comprising:
an abutment adapted to bond with a dental prosthesis;
a flexible neck segment connected to the abutment;
a body segment connected to the flexible neck segment, the body segment having threads extending helically about the implant axis, the thread diameter tapering non-linearly from a maximum adjacent the neck segment to a minimum at a distal end; and
a torque engagement segment positioned below the flexible neck segment and above the body segment, said torque segment configured to engage a torque-imparting tool.

Bauer discloses a screw dental implant with a conical threaded implant body and a conical implant post to accept a replacement tooth or a substructure. *See* Bauer, Abstract and col. 1, lines 5-10. In Bauer, the dental implant is screwed into the jawbone by coupling an instrument to the top of the dental implant: "The flat areas 8 form a rectangle which serves for coupling an

instrument, which is used as an aid for screwing in the implant, and for bending and straightening the post 7." Bauer, col. 3, lines 35-38, *see* Figure 1.

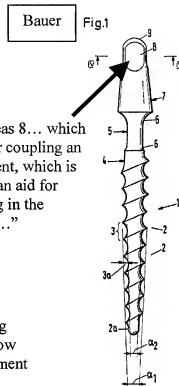
In contrast, Claim 39 of the present application recites (in relevant part): "a torque engagement segment position below the flexible neck segment and above the body segment." *See* Present Application, ¶ 0047, *see also* Figure 2A, element 18.



F/G. 2A

Present
Application

"The torque-accepting segment position below the flexible neck segment and above the body segment."



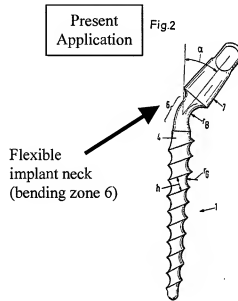
"Flat areas 8... which serve for coupling an instrument, which is used as an aid for screwing in the implant..."

Applicant respectfully submits that the difference in the physical position of the torque engagement segment is patentably distinguishable over Bauer. For instance, the position of the torque-accepting segment recited in Claim 39 gives rise to corresponding differences over the prior art that relate to the type of torque-imparting instrument used, the manner in which the torque-imparting instrument couples to the dental implant, and the technique for screwing the dental implant to the jawbone.

In addition, Applicant acknowledges that in the Office Action, Examiner has identified, "a torque engagement segment (4) positioned below the flexible neck portion (5). However, Applicant respectfully notes that Examiner does not state any reasonable basis supporting this §

102(b) rejection, and that these indicated elements are incorrectly referenced. According to Bauer, "An implant shoulder 4 extends from the upper end of the compression thread 2. The shoulder 4 has an implant neck, generally designated 5, which defines a bending zone 6." Bauer, col. 3, lines 22-25, *see* Figure 1. Bauer does not teach or disclose that this implant shoulder 4 or the implant neck 5 is to be used, or is capable of being used, as a torque engagement segment.

Moreover, Applicant respectfully notes that in order for the implant neck 5 to be uniformly flexible in all radial directions, it must be circular and the figures of Bauer illustrate the neck as being circular. Bauer has identified the bending zone (6) as encompassing the entire neck area, leaving no available area for an instrument to impart torque, in contrast to the "torque engagement segment" of the pending claim. *See* Bauer, Figure 2, *cf.* Present Application, Figure 2A, element 18.



Applicant submits that Bauer fails to disclose the "torque engagement segment position below the flexible neck segment and above the body segment" limitation in Claim 39. Therefore, for at least these reasons, Applicant respectfully requests that Examiner withdraw the rejection of Claim 39 and the dependent Claims 40, 43-46, 48, 56 and 57 and indicate that these claims are allowable over the prior art.

Traversal of Rejections under 35 U.S.C. § 103(a)

In the Office Action, Claims 41, 42, 47 and 49-52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bauer. Claims 53-55 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer in view of Christensen. Claim 62 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer in view of Nardi.

In light of the remarks made above traversing Claim 39 over the Bauer reference, Applicant respectfully submits that dependent Claims 41, 42, 47, 49-52, 53-55 and 62 are patentable and not obvious to a person of ordinary skill in the art in view of any or all of the aforementioned prior art references. Moreover, the various combinations of prior art suggested by Examiner do not teach or disclose each and every element of the dependent Claims 41, 42, 47, 49-52, 53-55 and 62.

Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of Claims 41, 42, 47, 49-52, 53-55 and 62 for at least the reason that these claims depend from allowable base Claim 39, and indicate that these claims are allowable over the prior art.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

Applicant respectfully submits that the above rejections and objections have been overcome and that the present application is now in condition for allowance. Therefore, Applicant respectfully requests that the Examiner indicate that Claims 39-57 and 62 are now acceptable and allowed. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Applicant respectfully submits that the claims are in condition for allowance in view of the above remarks. Any remarks in support of patentability of one claim, however, should not be

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imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicant respectfully traverse each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Applicant also has not presented arguments concerning whether the applied references can be properly combined in view of, among other things, the clearly missing elements noted above, and Applicant reserves the right to later contest whether a proper reason exists to combine these references and to submit indicia of the non-obviousness of the claimed management system.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claim and drawings in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

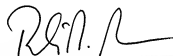
Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____

12-1-00

By: _____



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